Supreme Court, U. S.
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Nos. 79-1035 and 79-1036

In the Supreme Court of the United States

OCTOBER TERM, 1979

NEW YORK SHIPPING ASSOCIATION, INC., ET AL.,
PETITIONERS

v.

NATIONAL LABOR RELATIONS BOARD, ET AL.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO,
PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD, ET AL.

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

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These petitions—filed by the union and the employer associations who prevailed in the court below—seek review of the same judgment which is sought to be reviewed by the petition for certiorari filed by the National Labor Relations Board. *NLRB* v. *International Longshoremen's Association, AFL-CIO and Council of*

North Atlantic Shipping Associations, et al., No. 79-1082, filed January 10, 1980. These petitions also present the same basic question as is presented by the Board's petition—*i.e.*, whether the Board properly concluded that contractual provisions adopted by the union and the employer-organizations to deal with containerization in the shipping industry (the Rules on Containers) violated Section 8(e) of the National Labor Relations Act, 29 U.S.C. 158(e), and that union action to enforce those provisions violated Section 8(b)(4)(B) of the Act, 29 U.S.C. 158(b)(4)(B). Since this Court has rarely granted a petition for certiorari filed by the prevailing party,* and since the issues raised by the subject petitions can all be considered by this Court if it grants the Board's petition, no useful purpose would be served by granting the subject petitions. Accordingly, the petitions in Nos. 79-1035 and 79-1036 should be denied and the petition in No. 79-1082 should be granted.

Respectfully submitted.

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Solicitor General

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National Labor Relations Board

JANUARY 1980

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*See R. Stern and E. Gressman, *Supreme Court Practice* 58-60 (5th ed. 1978).

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